113TH CONGRESS 1ST SESSION S.
To amend the Patient Protection and Affordable Care Act to improve the patient navigator program.
IN THE SENATE OF THE UNITED STATES
introduced the following bill; which was read twice and referred to the Committee on
A BILL To amend the Patient Protection and Affordable Care Act to improve the patient navigator program.
1 Be it enacted by the Senate and House of Representa-
2 tives of the United States of America in Congress assembled,
3 SECTION 1. SHORT TITLE.
4 This Act may be cited as the "Healthcare Privacy
5 and Anti-Fraud Act".
6 SEC. 2. TRAINING, BACKGROUND CHECKS, AND NON-
7 DISCLOSURE FOR PATIENT NAVIGATORS.
8 (a) In General.—Section 1311(i) of the Patient

9 Protection and Affordable Care Act (42 U.S.C. 18031(i))

10 is amended by adding at the end the following:

BAI13976 S.L.C.

"(7)	SECURITY	AND	NONDISCLOSURE.—

"(A) GUIDANCE BY SECRETARY.—Not later than 90 days after that date of enactment of this paragraph, the Secretary shall issue guidance on the implementation of this paragraph in order to protect the privacy of individually identifiable information submitted to, or accessed by, navigators under this subsection.

"(B) Background Checks.—

"(i) IN GENERAL.—An entity that receives a grant under this subsection shall ensure that universal background checks are conducted on all employees of the entity prior to such employees providing navigator services to individuals, or prior to such employees having access to individually identifiable information as a result of providing such services. Such background checks shall, at minimum, include a criminal background check, fingerprinting, and credit report.

"(ii) LIMITATION.—An individual who has been found guilty of a felony, or guilty of a misdemeanor involving deceit or dishonestly (including identity theft, fraud, or

1	perjury), under Federal or State law shall
2	not be employed by an entity described in
3	clause (i).
4	"(C) OATH.—
5	"(i) In general.—Prior to com-
6	mencing employment with an entity that
7	receives a grant under this subsection, an
8	individual described in clause (ii) shall
9	have sworn or taken an oath that he or she
10	will not disclose any individually identifi-
11	able information obtained in the course of
12	their employment (except information rel-
13	evant to the commission of a felony when
14	provided to an appropriate law enforce-
15	ment authority).
16	"(ii) Individual described.—An in-
17	dividual is described in this clause if such
18	individual is being employed by an entity
19	described in clause (i) as a navigator, a
20	non-navigator assistant, or as an employee
21	with access to individually identifiable in-
22	formation.
23	"(D) EDUCATIONAL, TRAINING, AND LI-
24	CENSURE REQUIREMENTS.—Prior to conducting
25	navigation services for an entity under this sub-

1	section, an individual shall meet educational
2	and licensure requirements that are identical or
3	comparable to those currently applicable to
4	health insurance agents and brokers within the
5	State in which they seek to provide navigation
6	services, including the completion of at least 30
7	hours of training (including training on privacy
8	rights under this Act and other relevant Fed-
9	eral laws).
10	"(E) Liability.—Not later than 90 days
11	after the date of the enactment of this para-
12	graph, the Secretary—
13	"(i) shall issue guidance concerning
14	how liability and penalties will be applied
15	by the Secretary in instances of failure to
16	comply with requirements of this para-
17	graph, including where consumer outreach
18	and enrollment assistance causes harm to
19	an individual as a result of misuse or neg-
20	ligence in protection and privacy of individ-
21	ually identifiable information;
22	"(ii) shall determine whether such li-
23	ability lies with the navigator or non-navi-
24	gator assistance personnel involved or
25	whether liability lies with the entity that

1	received the grant under this subsection
2	and
3	"(iii) shall determine whether the in-
4	dividuals or entities identified under clause
5	(ii) are required to obtain professional li-
6	ability coverage.
7	"(F) Penalties.—
8	"(i) In General.—Whoever having
9	sworn or taken the oath described under
10	subparagraph (C), publishes or commu-
11	nicates any individually identifiable infor-
12	mation which comes into his or her posses-
13	sion by reason of his or her being em-
14	ployed (or otherwise providing services)
15	under this subsection, shall be fined not
16	more than \$5,000 or imprisoned not more
17	than 5 years, or both.
18	"(ii) Misrepresentation.—Any per-
19	son who knowingly and falsely represents
20	that such person is, or holds himself or
21	herself out as, a navigator under this sub-
22	section shall be fined not more than
23	\$5,000 or imprisoned not more than 5
24	years, or both.

1	"(iii) Enhanced penalty for sale
2	OR TRANSFER.—A person who commits the
3	offense described under clause (i) with the
4	intent to sell, transfer, or use individually
5	identifiable information for commercial ad-
6	vantage, personal gain, or malicious harm
7	shall be fined not more than \$250,000, im-
8	prisoned for not more than 10 years, or
9	both.
10	"(G) Greater protections.—Nothing in
11	subparagraphs (A), (B), (C) or (D) shall be
12	construed to prohibit States from imposing ad-
13	ditional standards and protections to protect
14	consumer information.
15	"(8) List of navigators.—Not later than 90
16	days after the date of enactment of this paragraph,
17	and annually thereafter, the Secretary shall make
18	available a list of entities providing navigator serv-
19	ices in accordance with this subsection and a list of
20	entities that have been determined to be ineligible to
21	provide such services or who have been convicted of
22	a violation under paragraph (7).".
23	(b) Limitation on Liability.—Section 5000A(e) of
24	the Internal Revenue Code of 1986 is amended by adding
25	at the end the following:

"(6) Reliance on Navigator advice.—Any 1 2 applicable individual who for any month failed to ob-3 tain minimum essential coverage as a result of the 4 good faith reliance on the advice of a patient navi-5 gator, counselor, or other employee of an entity re-6 ceiving a grant under section 1311(i) of the Patient 7 Protection and Affordable Care Act (or a person 8 purporting to be such a navigator, counselor, or 9 other employee).". (c) Effective Date.—The amendment made by 10 11 subsection (a) shall take effect on the date of the enact-12 ment of this Act and shall apply to grants made before, 13 on, or after the date of the enactment of this Act. The 14 Secretary of Health and Human Services shall provide for 15 the prompt modification of such grants made before the

date of the enactment of this Act in order to comply with

the requirement imposed by such amendment.

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